

**COUNTY OF HAWAI'I PLANNING DEPARTMENT**  
**RECOMMENDATION**

**BOAZ, LLC**  
**SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION**  
**(PL-SMA-2025-000072)**

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Upon careful review of the applicant's request against the guidelines for a Special Management Area Use Permit, the Planning Director is recommending that **this request to construct a four (4) story, thirty-four (34) unit condominium building with a pool and related improvements be approved by the Leeward Planning Commission.** Since this recommendation is made without the benefit of public testimony, the Planning Director reserves the right to modify and/or alter this recommendation based upon additional information presented at the public hearing. This approval recommendation is based on the following findings:

The applicant, Boaz LLC, has submitted an application for a Special Management Area (SMA) Use Permit to construct a four-story, 34-unit condominium building along with associated improvements such as a swimming pool, parking areas, public access pathways, and utility connections. The condominium structure is designed to include a range of unit types, from 1-bedroom to 3-bedroom units with dens, all featuring kitchens, living rooms, and private lanais. The building will be approximately 45 feet tall and include 34 parking spaces beneath the building and an additional 13 mauka-side parking stalls, of which 3 will be dedicated for public shoreline access.

When reviewing proposed developments within the SMA, the Planning Commission should follow the below listed guidelines as established within HRS 205A-26 (SMA guidelines):

No development shall be approved unless the Planning Commission has first found:

- (A) That the development will not have any substantial adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interests. Such adverse effects shall include, but not be

limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect, and the elimination of planning options.

(B) That the development is consistent with the objectives, policies, and Special Management Area guidelines of this chapter and any guidelines enacted by the legislature; and

(C) That the development is consistent with the county general plan and zoning. Such a finding of consistency does not preclude concurrent processing where a general plan or zoning amendment may also be required.

**In review of the SMA guidelines as listed under HRS 205A-26(2) (A) above, the proposed development of the subject parcel will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest.** In considering the significance of potential environmental effects, the Deputy Director shall consider the sum of those effects that adversely affect the quality of the environment and shall evaluate the overall and cumulative effects of the action. Such adverse effect shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken might not have a substantial adverse effect and elimination of planning options.

A “substantial adverse effect” is determined by the specific circumstances of the proposed use, activity, or operation. In determining whether a proposal may have a substantial adverse effect on the environment, the Director shall consider every phase of the proposed action and expected consequences, either primary or secondary, or the cumulative as well as short or long-term effect of the proposal. The project has been reviewed against the factors that may constitute a substantial adverse effect as listed under Planning Commission Rule 9-10 (H) (1 through 10):

- (1) involves an irrevocable commitment to loss or destruction of any natural or cultural resource, including but not limited to, historic sites and viewplanes outlined in the General Plan or other adopted plans.
- (2) curtails the range of beneficial uses of the environment.

- (3) conflicts with the long-term environmental policies or goals of the General Plan or the State Plan.
- (4) substantially affects the economic or social welfare and activities of the community, County or State.
- (5) involves substantial secondary impacts, such as population changes and effects on public facilities.
- (6) in itself has no substantial adverse effect but cumulatively has considerable adverse effect upon the environment or involves a commitment for larger actions.
- (7) substantially affects a rare, threatened, or endangered species of animal or plant, or its habitat.
- (8) detrimentally affects air or water quality or ambient noise levels.
- (9) affects an environmentally sensitive area, such as flood plain, tsunami zone, erosion-prone area, geologically hazardous land, estuary, fresh water, or coastal water; or
- (10) is contrary to the objectives and policies of the Coastal Zone Management Program and the Special Management Area Guidelines of Chapter 205A, HRS.

It should be noted that under Planning Commission Rule 9-10 (H) (9), a proposed use, activity or operation may constitute a substantial adverse impact if it affects environmentally sensitive areas, such as flood plain, tsunami zone, erosion-prone area, geologically hazardous land, estuary, fresh water, or coastal water. The proposed development of the subject parcel will not have any significant adverse environmental or ecological effects. The project has been designed to align with the urban character of the surrounding area and will implement extensive Best Management Practices (BMPs) during construction to mitigate temporary impacts, such as fugitive dust and construction runoff. No long-term adverse impacts to air quality, water quality, soil, coastal resources, flora, fauna, or scenic resources are expected. Additionally, the site has already been heavily disturbed by prior clearing, minimizing the likelihood of encountering sensitive cultural or biological resources.

Temporary construction impacts, such as minor noise and dust, will be minimized through proper site management and adherence to regulations under the Hawai'i Department of Health. To further protect the environment, the project will submit a Solid Waste Management Plan and an Emergency Preparedness and Response Plan for review

and approval by the appropriate agencies before occupancy. No irreversible or irretrievable commitment to environmental resources is anticipated.

Any adverse effects that may occur are considered temporary and minimal and are clearly outweighed by the public benefits provided by the project, including the provision of much-needed housing and enhanced public access to shoreline resources through dedicated pathways and parking. Thus, the project supports public health, safety, and welfare, and advances compelling public interests in a manner consistent with Special Management Area objectives. The proposed development aligns with the Coastal Zone Management (CZM) guidelines by preserving shoreline open space through a 40-foot setback, enhancing public access with new shoreline pathways and parking, and implementing Best Management Practices to protect coastal water quality, scenic resources, and marine ecosystems. The project avoids disruption to valued coastal resources, minimizes exposure to coastal hazards by siting improvements outside the Sea Level Rise Exposure Area.

**In review of the SMA guidelines as listed under HRS 205A-26(2) (B) above, the proposed development is consistent with the objectives and policies as provided by Chapter 205A, HRS, and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure.**

The purpose of Chapter 205A, Hawai'i Revised Statutes (HRS) and Special Management Area Rules and Regulations of the County of Hawai'i, is to preserve, protect, and where possible, to restore the natural resources of the coastal zone areas. Therefore, special controls on development within an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options. The objectives and policies of Chapter 205A, HRS include, but are not limited to, the protection of coastal recreational resources, historic resources, scenic and open space resources, coastal ecosystems, marine resources, beaches, and controlling development in coastal hazard areas.

Coastal Recreational Resources:

The proposed project supports the objective to provide coastal recreational opportunities accessible to the public, as outlined under HRS 205A-2(1)(A) and the SMA

guidelines. Public access will be improved through the establishment of two easement pathways: a ten-foot-wide mauka-makai pedestrian pathway connecting Ali'i Drive to the shoreline, and a ten-foot-wide lateral shoreline pathway. In addition, three public parking stalls will be provided to serve shoreline users. These measures enhance shoreline accessibility for residents and visitors, preserving and encouraging public use of the coastal zone without impeding existing recreational patterns.

#### Historic Resources:

Regarding the protection of historic and cultural resources under HRS 205A-2(2)(A), an Archaeological Inventory Survey (AIS) conducted in 1989 identified two historic sites on the property, interpreted as clearing mounds of limited informational value. No further action was recommended by the State Historic Preservation Division (SHPD). The property is not listed on the State or National Registers of Historic Places. However, the applicant has committed that, in the event archaeological or cultural resources are encountered during construction, all work in the vicinity will cease and appropriate protocols for consultation with SHPD and the County Planning Department will be followed. This demonstrates compliance with SMA guidelines for cultural resource protection.

#### Scenic and Open Space Resources:

The project is consistent with policies to protect and enhance scenic and open space resources under HRS 205A-2(3)(A). The project will preserve the shoreline open space by maintaining a 40-foot shoreline setback free of structures. The visual character of the coastline will be preserved, and new development will align with the surrounding residential condominium complexes, minimizing impacts on coastal viewsheds. In addition, by enhancing public access and not introducing structures into critical view corridors, the project contributes positively to the maintenance of open space aesthetics along this portion of Ali'i Drive.

#### Coastal Ecosystems and Marine Resources:

The project supports the protection of coastal ecosystems in accordance with HRS 205A-2(4)(A). Development will incorporate Best Management Practices (BMPs) for erosion control, dust management, stormwater management, and wastewater connection

to the County sewer system. Measures such as sediment fencing, vegetation buffers, and properly stabilized construction entrances are proposed to reduce potential adverse impacts to nearshore marine ecosystems. Furthermore, avoiding significant grading within sensitive shoreline areas further ensures that reef, beach, and dune ecosystems are not negatively impacted.

Beaches:

The project will protect beaches and coastal dunes for public use, recreational benefit, and as natural coastal buffers in accordance with HRS 205A-2(9)(A). By adhering to the shoreline setback, enhancing public shoreline access, and implementing stormwater and wastewater management measures, the project helps safeguard beach areas from degradation. The proposed pathways will allow for continued public use of the shoreline without introducing barriers or privatization pressures, thus supporting the public trust doctrine in coastal access and recreation.

Coastal Hazards:

The property lies within the tsunami evacuation zone, and to comply with hazard mitigation objectives under HRS 205A-2(6)(A), the applicant will prepare and submit an Emergency Preparedness and Response Plan to the Hawai'i County Civil Defense Agency for approval prior to issuance of a Certificate of Occupancy. The proposed structures will be sited outside of the Sea Level Rise Exposure Area, and the design will comply with applicable flood zone and shoreline setback requirements. Improvements to Ali'i Drive, including extension of the two-way left-turn lane and paving of shoulders, are intended to improve evacuation efficiency in the event of a coastal hazard emergency, further demonstrating responsible planning for resilience and public safety.

**In review of the SMA guidelines as listed under HRS 205A-26(2) (C) above, the proposed development is consistent with the County General Plan, the Zoning Code and the Kona Community Development Plan.** The property is zoned Multiple-Family Residential 1,500 square feet (RM-1.5) which provides for medium and high-density residential use in areas with full community facilities and services. A 34 unit condominium project would be consistent with the current zoning designation and will result in an intensity of land that is no higher than what is permitted by the existing RM-

1.5 zoning. Staff notes that the proposed condominium development will require Plan Approval, and as such the plans may need to be modified to meet the Zoning Code requirements such as, but not limited to, on-site parking, landscaping, property line setbacks, minimum height of the structure, drainage, and access to Ali'i Drive from the project parcel.

The proposed project conforms to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map, which designates this area as Medium Density Urban (mdu). This type of designation includes village and neighborhood commercial and single-family and multiple-family residential and related functions, up to 35-units per acre.

The proposed development is consistent with the County General Plan, the Zoning Code, and the Kona Community Development Plan (KCDP). Under the County General Plan, approximately 50 percent of the subject property is designated as Medium Density Urban and 50 percent as Open according to the Land Use Pattern Allocation Guide (LUPAG). Medium Density Urban areas support village-style neighborhoods and multiple-family residential development of up to 35 units per acre, which aligns with the proposed 34-unit condominium project on a 1.195-acre parcel

. The project preserves shoreline open space consistent with the Open designation through a 40-foot shoreline setback and provision of public shoreline access.

The project also complies with the County Zoning Code (Chapter 25, Hawai'i County Code) because the property is zoned RM-1.5 (Multiple-Family Residential District), allowing multiple-family dwellings at densities consistent with the proposed development. Plans have been designed to conform to zoning standards for setbacks, height, and land use intensity, and will comply with Planning Department requirements for plan approval, landscaping, and road improvements.

In addition, the project aligns with the Kona Community Development Plan (KCDP). The site lies within the Kona Urban Area and falls within the outer boundary of the Kailua Village Transit-Oriented Development (TOD) area, where compact, higher-density development is encouraged to support public transit and urban vitality.

The project fulfills Policy LU-1.2, which directs future growth into the Kona Urban Area, and Policy LU-1.4, promoting consistency with the existing Land Use

Pattern Allocation Guide (LUPAG) designations. Furthermore, the project supports Objective LU-2 by concentrating growth into compact, walkable communities with access to utilities and services, and maintaining the area's urban character.

In conclusion, the proposed development complements the County's broader land use goals by promoting orderly urban development, supporting needed housing supply near employment centers, enhancing public access to coastal resources, and preserving shoreline open space.

**The proposed development will not have a significant adverse impact to traditional and customary Hawaiian rights:** In view of the Hawai'i State Supreme Court's "PASH" and "*Ka Pa'akai O Ka'Aina*" decisions, the issue relative to native Hawaiian rights, such as gathering and fishing rights, must be addressed. These rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site:

Investigation of valued resources: In view of the Hawai'i State Supreme Court's PASH and *Ka Pa'akai o ka 'Āina* decisions, the application includes an investigation into cultural, historical, and natural resources associated with the site. The applicant notes that while the broader Puapua'a area is rich in historic significance, the subject parcel itself has been extensively disturbed and is not known to have been used for traditional gathering or customary practices in recent history. An archaeological inventory survey (AIS) was conducted in 1989, and the State Historic Preservation Division (SHPD) concluded that no historic properties would be adversely affected by the project.

The valuable cultural, historical, and natural resources found in the permit area: The resources identified on the property include two minor archaeological sites (historic clearing mounds), which were determined to be of *informational value only*. The property's vegetation has been significantly altered over time, being dominated today by invasive species like Guinea Grass and Haole Koa, thereby eliminating much of the native vegetation that might have been traditionally gathered. Although the adjacent shoreline area is used for traditional Hawaiian practices such as coastal gathering and fishing, these activities occur makai of the project site and will not be impacted by the proposed development.



Possible adverse effect or impairment of valued resources: The proposed development is not expected to have any significant adverse effect on valued cultural, historical, or natural resources. Gathering activities along the shoreline, including fishing and coastal foraging, will remain accessible and will not be obstructed. There are no known traditional or customary uses specifically tied to the project site itself.

Feasible actions to protect native Hawaiian rights: To protect Native Hawaiian rights, the applicant has committed to maintaining the established public shoreline access pathways and parking facilities. In the event that documented traditional gathering or access rights are asserted, the applicant has stated they will respect and honor such claims, ensuring that appropriate access is maintained. Vegetation management to prevent overgrowth onto public accessways, as well as clear public access signage, will also be implemented to ensure continued, unobstructed shoreline access.

Additionally, should any archaeological resources be encountered during construction, work will stop immediately and appropriate consultation with SHPD and the Planning Department will occur before work resumes.

Lastly, this approval is made with the understanding that the Applicant remains responsible for complying with all other applicable government requirements in connection with the approved use, prior to its commencement or establishment upon the subject property. Additional governmental requirements may include the issuance of building permits, the installation of approved wastewater disposal systems, compliance with Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

Based on the above findings, it is determined that the proposed development will not have any substantial adverse impacts on the environment, nor will its approval be contrary to the objectives and policies of Chapter 205A, HRS, relating to Coastal Zone Management and Rule No. 9 of the Planning Commission relating to the Special Management Area. Approval of this request is subject to the following conditions:

1. The applicant(s), its successor(s) or assign(s) (Applicant) shall be responsible for complying with all of the stated conditions of approval.
2. The Applicant shall secure all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws and regulations.
3. Construction of the condominium shall be conducted in a manner that is substantially representative of plans and details as contained within the Special Management Area Use Permit application dated November 7, 2024, all supplemental material, and representations made to the Leeward Planning Commission.
4. Construction of the proposed development shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant(s), successor(s) or assign(s) shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and/or proposed structure(s), paved driveway access and parking stalls associated with the proposed development. Landscaping shall be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements) and Chapter 25 (Zoning Code), Hawai'i County Code.
5. The applicant shall be required to comply with the conditions of the "*Grant of Easement for Public Access*" recorded as Document No. 91-014902 with the Bureau of Conveyances on February 4, 1991. All required improvements shall be in place prior to the issuance of a certificate of occupancy for any portion of the development.
6. Prior to the issuance of a water commitment by the Department of Water Supply (DWS), the Applicant shall submit the anticipated maximum daily water usage calculations as prepared by a professional engineer licensed in the State of Hawai'i to the DWS. A water commitment deposit shall be paid to the DWS

within 180 days from the approval of this permit in accordance with Rule 5 of the Department of Water Supply's Rules and Regulations. The Applicant is responsible for maintaining valid water commitments to support the proposed use until such time that required water facilities charges are paid in full.

7. The Applicant shall install a reduced pressure type backflow prevention assembly within five (5) feet of the existing water meter and any additional water meters on private property, which must be inspected and approved by the Department of Water Supply.
8. The Applicant shall comply with Chapter 27 - Flood Control, of the Hawai'i County Code.
9. All earthwork and grading shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.
10. Artificial light from exterior lighting fixtures, including, but not necessarily limited to floodlights, uplights or spotlights used for decorative or aesthetic purposes shall be prohibited if the light directly illuminates, or is directed to project across property boundaries toward, the shoreline and ocean waters, except as may otherwise be permitted pursuant to Section 205A-71(b), Hawaii Revised Statutes.
11. During construction, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawai'i.
12. Prior to any land alteration on the property and until the time that the approved activity and/or structure is completed and has received final inspection by the Building Division, the Applicant shall have a licensed land surveyor place and maintain stakes and flags at the location of the shoreline and the shoreline setback line, as shown on the approved plans. Stakes and flags shall be placed at intersections with the side yard boundaries and at (appropriate) intervals along the setback line; the stakes shall be clearly visible at all times. No vegetation removal,

land alteration or construction shall occur between the shoreline and shoreline setback line unless approved by this permit.

13. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. A drainage study shall be prepared by a professional civil engineer licensed in the State of Hawai‘i and submitted to the Department of Public Works prior to issuance of Final Plan Approval. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to receipt of a Certificate of Occupancy.
14. The property shall connect to the public sewer in accordance with Section 21-5 of the Hawai‘i County Code prior to issuance of a Certificate of Occupancy.
15. All driveway connections to Ali‘i Drive shall conform to Chapter 22, County Streets, of the Hawai‘i County Code. Sight distance shall meet applicable recommendations of the Hawai‘i Statewide Uniform Design Manual and/or the AASHTO Policy on Geometric Design of Highways and Streets.
16. The Applicant shall extend the existing two-way left turn lane on Alii Drive to accommodate northbound left turns into the proposed development in the manner specified by the Department of Public Works.
17. The Applicant shall provide a 5-foot-wide future road widening setback easement along the entire frontage of the property along Alii Drive. The road widening setback easement shall be dedicated to the County upon request at no cost to the County. A paved shoulder along the entire frontage of the property extending to the right-of-way shall be provided, meeting with the approval of the Department of Public Works.
18. Any vehicular security gate shall be located a minimum of 45 feet from Alii Drive pavement. Further, a turn around on the Alii Drive side of the gate shall be provided.
19. In the unlikely event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g., rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes

are identified during the demolition and/or construction work, the Applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.

20. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and compliance with the conditions of approval. This condition shall remain in effect until all of the conditions of approval have been satisfied and the Planning Director acknowledges that further reports are not required.
21. Comply with all applicable laws, rules, regulations, and requirements of affected agencies for the proposed project.
22. An extension of time for the performance of the conditions contained herein may be granted by the Planning Director upon the following circumstances:
  - a) The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.
  - b) Granting of the time extension would not be contrary to the original reasons for the granting of the permit; and
  - c) The time extension granted shall be for a period of not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).

If the Applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission for appropriate action.

23. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke the permit.